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C O N F I D E N T I A L NAIROBI 001154

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SUBJECT: KENYAN GOVERNMENT FUMBLES, OPPOSITION BENEFITS

REF: A. NAIROBI 1077
[1](#)B. NAIROBI 945
[1](#)C. NAIROBI 661

Classified By: Political Counselor Michael J. Fitzpatrick. Reasons 1.4
(b,d)

[1](#)1. (C) SUMMARY: With Parliament set to reconvene March 21, Kenya's "ODM" opposition is armed with a number of issues over which to take on the government. Buoyed by the government's recent media crack-down gaffe, ODM leaders have publicly recommitted themselves to cooperation. Their united exterior, however, belies the rifts that exist among the various strong personalities vying for the starring role.
END SUMMARY.

ORANGE HAS A CAUSE

[1](#)2. (C) The Orange Democratic Movement (ODM) has effectively gelled into an opposition coalition. Born of last fall's KANU and Liberal Democratic Party (LDP) campaign against the largely government-backed draft constitution, ODM is now speaking publicly with one voice on the issues of media freedom, corruption, and constitutional reform. The February 28 arrest of three Standard journalists and the March 2 police raids on the Standard Media Group's facilities (ref B), provided ODM its most recent boost, prompting both a statement declaring the end of the Kibaki government's legitimacy, and a several thousand-strong protest march through downtown Nairobi.

[1](#)3. (C) The opposition also bonded over the January exposure of massive corruption involving officials close to President Kibaki. LDP Secretary General Joseph Kamotho explained to poloff recently that he and his colleagues would, when Parliament resumes March 21, exert pressure on the government to clean up corruption. Presentation of the Public Accounts Committee's (PAC) investigation into the Anglo Leasing scam would be a priority, PAC member and KANU Minority Whip Justin Muturi told poloff. (NOTE: John Githongo's Anglo Leasing disclosures chiefly implicated Democratic Party/Mount Kenya mafia, not LDP or KANU, politicians. END NOTE.) Although Muturi appreciated the symbolic importance of three ministers' resignations (ref C), prosecutions are necessary to demonstrate Kibaki's commitment to tackling corruption. He doubted, however, that any of the individuals implicated would actually be held legally accountable. Ironically, KANU nominated MP Ruth Oniang'o gave Kibaki points for forcing the

resignations, but added that he needed to do more.

DUELING CONSTITUTIONS

14. (C) Both government and opposition intend to keep the constitution debate cooking, if only on a back burner. Oniang'o was disappointed with Kibaki's latest move on constitutional reform: naming a 15-member panel of "experts" to consider how the review should continue. She asked rhetorically, "Who are they?" adding that Kenya should not "waste its energy" on a new constitution. The ODM on February 28 issued a detailed statement decrying Kibaki's refusal to engage in consultations and criticizing the President's team for not having learned its lesson (through the November 2005 referendum) that constitution making "is not a government project." For its part, the ODM plans to convene a parallel committee of experts. Constitutional reform is not a priority for the Kibaki government, Kamotho remarked to poloff, because Kenyans will insist on a document that limits the power of the executive, and the current government will not accept an end to its "one man show." (COMMENT: Indeed, no one in town predicts a new Kenyan constitution before 2007; politicians on all sides are pressed for time around other preoccupations -- but will gladly use the constitutional debate as cudgel with which to hit their opponents. END COMMENT.)

ODM 1, NARC 0: BY-ELECTION LANDSLIDE

15. (SBU) The March 1 Parliamentary by-election in Kasipul-Kabondo constituency (Nyanza Province) was the first face-off between NARC and one of its former constituent partners (LDP), as well as a model of ODM cooperation. Agreeing it was clearly LDP territory, KANU did not field a candidate, and instead campaigned with LDP under the ODM banner. LDP's Kamotho told poloff before the election that the ODM would similarly put forward a single candidate for president in 2007. Backed by Luo Nyanza superstar Raila Odinga, LDP's Paddy Ahenda beat NARC's Otieno K'Opiyo (also a Luo) by a margin of 18,202 to 1,912 votes.

ODM ON LIFE SUPPORT?

16. (C) The apparent KANU-LDP cooperation in Kasipul-Kabondo notwithstanding, the prognosis for the ODM's continued viability is not good. KANU's Muturi would not discuss ODM's institutional prospects, and instead criticized as "unclean" with respect to corruption a number of ODM leaders, most notably Odinga and even KANU's William Ruto. Oniang'o was less circumspect, declaring bluntly "ODM will not last." The reason, she explained was that KANU was still upset at Odinga for "robbing their house." (NOTE: This is a reference to Odinga's 2002 split from KANU, of which he was formerly Secretary General, with other disaffected members when Uhuru

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Kenyatta was given the party nod for the presidency. END NOTE.) In contrast, Kamotho insisted that ODM would stay together for the 2007 general election. The leaders would be careful, he added, to draw lessons from LDP's betrayal by NARC, to create a strong, single body. Kamotho dismissed as "individual ambition" a number of ODM leaders' announced intention to run for president, insisting the group would be able to put forth a consensus candidate.

COMMENT

17. C) COMMENT: ODM is showing surprising staying power as a political vehicle - even as there is a barely hidden battle among LDP and KANU leaders for control of the steering wheel. With enduring sensitivities between the two main partners, LDP still smarting from its failed Rainbow Coalition (NARC) experiment, and a number of strong personalities vying for center stage in 2007, the likelihood of ODM sustaining itself

through the next general election is slight. KANU, in particular, is the reluctant bride - cautious and pessimistic - unwilling to compromise Uhuru Kenyatta's presidential potential. However, ODM is effective as a loud and charismatic front for highlighting government missteps. Focused attention on the issues of opposition - the constitution, corruption and democratic space - could prove an effective cohesive force for the short-term. END COMMENT.
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